



MIDDLEBURY COLLEGE

MIDDLEBURY, VERMONT 05753

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Office of the President

March 12, 1990

MEMORANDUM TO THE MIDDLEBURY COLLEGE COMMUNITY

In the Spring of 1988, the Special Committee on Attitudes Toward Gender was created to review and report on attitudes and behavior on campus concerning issues of gender. The Committee's final report which was shared with the Board of Trustees this past weekend is attached for your review.

I hope this report will be viewed as the basis for discussion and action. But most importantly the report can provide a useful context for change.

During the week following Spring break, the Committee plans to offer a series of workshops to encourage community discussion. These will be announced in the Campus and Midd Points.

The report raises and addresses some very sensitive issues and I commend the Committee for its thoughtful and careful review of the subject. There will no doubt be a great deal of discussion on campus concerning this report. My hope is that all members of our community will work toward making the discussion a constructive and educational process.

A handwritten signature, likely of the President, in dark ink.

Final Report

Special Committee on Attitudes Towards Gender

Middlebury College



The Special Committee on Attitudes Towards Gender delivers this report to the President of Middlebury College. The report represents the efforts of the seven committee members from September 1988 to March 1990. The committee recognizes that few private colleges have been willing to take the bold and progressive step of self-scrutiny regarding gender issues. We thank the President for the confidence he has placed in us to undertake this sensitive project. We thank the community for its openness and willingness to share with us personal experiences, perceptions and feelings. It is our hope that this document contributes to our understanding of these relationships and, in an environment of continued openness, provides some guidelines for making our campus more comfortable for all members of the community.

*Members of the Special Committee
on Attitudes Towards Gender:*

Porter Ball '89
Jim Hackett '89
Diana Henderson
Brian Kenyon '89
Yonna McShane
Maggie O'Brien (*chair*)
Bob Osborne

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Prologue

The Committee on Attitudes Towards Gender was appointed in the Fall of 1988 by President Robison, in the aftermath of an incident at Middlebury College in which a mutilated female mannequin was suspended from the balcony of a fraternity house during a Spring party. The incident created a public outcry which ensued throughout the final weeks of the 1987-88 academic semester. After heated debate and discussion, the Community Council recommended to the President a course for disciplinary action against the fraternity and an educational program for members, as well as a broader request for the review of the status of women on campus. President Robison adopted the recommendations of the Community Council in total and began immediately to plan for the formation of a committee to review the status of women and, to study more broadly, the status of gender on campus.

The Committee included three students, Porter Ball, Brian Kenyon and Jim Hackett, three faculty, myself, Bob Osborne and Diana Henderson, and Yonna McShane, Assistant Director of the Counseling Center and Health Educator. Our charge from President Robison was "to develop recommendations as to how the College community should continue in future years to educate people about attitudes towards gender." The appointment of this Committee in the year preceding the ten year reaccreditation review, and its work during this year, serve as an important part of our overall evaluation. We have taken part in chronicling our overall social health as a liberal arts college, which is particularly informative in the decade of the nineties.

The Committee met weekly throughout the Fall, talking for one to two hours with members of the College community, including: John Emerson, Dean of the College and Frank Kelley, Director of Residential Life (subject: fraternities and the defiling of the mannequin); Sallie Sheldon, Assistant Professor of Biology (subject: male and female concepts in biology); Marc Reiss, Associate Professor of Psychology (subject: attitudes vs. behaviors); Erica Olsen, Editor of Womyn (subject: Womyn and the Women's Union); and Brett Millier, Assistant Professor of American Literature and Civilization (subject: Women's Studies). In January and February of 1989, we co-sponsored four community presentations addressing issues of gender: 1) a showing of the film "Stale Roles and Tight Buns: Images of Men in Advertising;" 2) "Rethinking the Male Undergraduate Experience," a seminar by Rocco Capraro and Alan Berkowitz, Hobart College; 3) "Jazzy Quilts: An Afrocentric View of Womanhood," a lecture by Deborah King, Dartmouth College; and 4) "Sexual Harassment and the Work Place," a

lecture by Midge Wilson, DePaul University (subject: sexism in academe). Each of our guests also engaged willingly in lively debate with our committee. We grew considerably from these interactions.

Throughout the Spring of 1989, the Committee was involved in the preparation, distribution and evaluation of surveys designed to collect from students, faculty and staff information on issues relating to gender attitudes and behaviors at Middlebury College. The survey closely parallels, with permission, a survey used at the University of Virginia by a similar task force evaluating the status of women. In particular, several questions were designed to educate the respondents about sexual harassment and gender discrimination, which is practiced largely against women. Based on information the Committee had gained throughout the fall, it was recognized that on our campus too, gender discrimination and sexual harassment most frequently are directed against women. Our choice to focus several questions of the survey on women's issues angered some members of the community, a few of whom chose to express hostility towards Bob Osborne and in anonymous hostile comments on the survey. The Committee regrets that there exists such hostility within the community towards women's issues. The extent of "backlash" statements provided on the returned surveys drew our attention and demonstrated for us the pervasive tolerance of gender discrimination on campus, particularly as directed against women.

The returned surveys contain commentaries which are moving, concerning and perhaps the most educational of all of the information received by this committee. This report contains excerpts of such material provided alongside the text. The quantitative data which are presented and most of the quoted commentary contained within this report were obtained from information provided anonymously on the returned surveys. In the end, the written survey information served to confirm the Committee's informal conclusions which were shaped from our open discussions with members of the community: that sexism and gender issues are ubiquitous problems which affect and involve all segments of our community. The students, the staff, the administration and the faculty are impacted both professionally and personally, and that in turn, affects the educational process and mission of this college.

Any committee undertaking a sensitive assignment like this develops its own personality, and this one was no exception. Most of us came to the Committee with a lot to learn. Much of our discourse was frustrating and controversial. The analysis, while enriching,

was unsettling for all of us as we were compelled to deal with our own gender biases. I share with you what was shared with me, from two committee members:

"The committee then has raised [our] awareness as well. Because students who were not already involved with this issue on campus were selected for the committee, this awareness raising has begun and has been very beneficial. One of the most important things that this committee can do is to set up a system which will educate the student body here at Middlebury in much the same way that [we] have been educated. I know that my thinking on the matter has changed considerably. Whether my actions show this or not is another matter. No committee can pretend to have the ability to change the actions of a community. The most it can do is to educate the community."

"I believe that everyone is experiencing pain, everyone is hurting in one way or another. Because of this fact no decent human being - and I believe that Middlebury admits decent human beings - wants to see another suffer or grieve. Any programs which the College employs to educate its student body, faculty and staff should at least begin with this basic premise about human nature. Not doing so gives the male population the sense of being scolded and only serves to polarize the community. There is obviously a need for educational programs, but they should be careful not to alienate men."

With all of our disagreements, we did respect each other as individuals and showed our consideration for each other throughout our experience. I thank each of you as a member of this committee for your humaneness, setting a tone which I hope will be assumed by our community as it reads and discusses this document.

Maggie O'Brien, *Chair*
Special Committee on Attitudes Towards Gender
March 15, 1990

Introduction

*"Today in class many
class members, both male
and female, reacted disdain-
fully to the feminist opinions
(very well grounded) of
another student during a
history discussion."
-female freshman*

*"The general atmos-
phere treats women superfi-
cially and tends to treat them
as objects. However, there is
a large percentage of 'en-
lightened' students who are
struggling against it."
-male freshman*

*"Academically the
status of women is good.
They are taken seriously by
faculty and equal to men.
Socially, though, women are
still second class citizens."
-female senior*

When the women's movement began, one of its crucial discoveries became a slogan: "the personal is political." Twenty years of social change and study have confirmed this assertion, but they also allow us to avoid the over-simplifications that often accompany it. The personal has political valences, in the sense that our society (and campus community) plays a major role in shaping our ideas of the good, the desirable and the natural; but society does not simply determine or reduce our responses as if we were predictable Pavlovian dogs. The study of gender and its social applications is therefore a complicated matter and has prompted scholars and social reformers alike to examine their terms and make a more careful distinction. Each and every personal experience can not simply be reduced to an example of societal inequity or bias. Each individual does not represent his or her entire gender or its social roles at every moment; a single man does not represent "men" any more than a single woman represents "women." Thus, a young man in a classroom should not be labelled the "oppressor" because of age-old patriarchal systems, nor should a young woman be fit into a preconceived and unattractive stereotype if she calls herself a "feminist (According to Webster's Dictionary, "feminism" is "the theory of the political, economic, and social equality of the sexes;" this does not seem to be the definition most commonly assumed at Middlebury)." We could all benefit by being more careful and considerate in distinguishing individuals from the social system of which they are part, even as we recognize the connection between our society and ourselves.

If all one were to gain by recognizing gender's social applications were anger and pain, we might well turn our backs on the matter (even if this seems to some "bad faith", and makes subsequent assertions of an inclusive community ring hollow). In fact, however, such recognition of gender's general social application—coupled with the desire to redress systematic inequities—has prompted enough exciting, positive change on other campuses that we can counter fear with optimism and doom-saying with evidence. By studying issues of gender with some intellectual remove, and by setting up social structures where differences can be expressed safely and non-confrontationally, we can work to create a more diverse but no less solid sense of community. Honest recognition of difference may lead not to opposing "camps," but instead to a more individualistic and friendly campus.

Increasingly, environmental, political and moral problems are being cited as reasons to rethink our cultural assumptions and look for alternatives, to re-value the "other." Re-valuing the "femi-

*"Before all the uproar
about sexism at Middlebury,
women were not looked
down upon in any way.
However, the feminism
movement has created a
counter anti-feminism
feeling among the male
members of Middlebury.
Before, I did not witness any
of these feelings."
-male sophomore*

nine," as traditionally stereotyped, has been one example of this search. Others wish to challenge the stereotypes, allowing persons of both genders access to a full range of attitudes and traits, no longer labelled "feminine" or "masculine," but rather "human." This avoids what some see as the inevitable hierarchy our minds create when faced with binary oppositions (e.g., in pairs like "active/passive," "sun/moon," "culture/nature," "day/night" "form/matter," the first term tends to be viewed as dominant or the norm, not merely different). More immediately, this allows us as individuals to express ourselves more diversely and with less worry about fitting limited stereotypes.

In discussing sex roles, men and women have equal gains to make by recognizing the socialized component of gender identity: not only could both men and women wear pink and blue clothes without fear, but men could express tenderness, fear and sensitivity without being labelled "wimps," "effeminate" or "weak," whereas women could assert their intelligence, strength and anger without being dubbed "emasculating", "strident" or "shrill." People may, in fact, find that they share many feelings and worries regardless of gender, and on the basis of more profound links, make friends regardless of sex. The range of female-male relationships, in other words, can be enlarged along with the range of acceptable non-gendered behavior.

This is the opinion of the Gender Committee, which began its assignment with the gallant notion that we should seek to understand what gender attitudes and behaviors exist within the Middlebury College community then, subsequently, evaluate these. We realized quickly that confusion and mistrust obfuscate much of what we might otherwise know already. The understanding has taken longer than we expected, beginning with informal meetings and discussions, readings of the literature that describes campus gender issues, more comprehensive discussions within the community in formal presentations by invited lecturers, and finally with the survey distributed to individual students, staff and faculty in the Spring of 1989.¹

The latter provided for us a particularly poignant and personal glimpse of the private lives of the members of our community. In our presentation below, we have included anonymous commentary which provides a disturbing group portrait. We urge the community to commit itself to resolving the gender-related problems herein represented and to provide a more supportive environment for all.

¹ Copies of the gender surveys may be obtained in the office of the Dean of the Faculty.

I. Attitudes and Behaviors of Students Towards Gender

"I believe there is a pervasive negative attitude and lack of respect for women on this campus. By women I am referring to female students, although they are generally called and viewed as girls. I'll admit I find the term 'women' awkward to use myself, especially when referring to a specific student, but 'girl' is no better. And the term 'cracks' is certainly not the answer, though often used. Many of my male acquaintances insist on referring to women in this manner and constantly talk to and about them in an extremely negative and offensive manner. This breeds or reinforces negative attitudes in women towards themselves and other women and a lack of respect as well. Un-

Middlebury College students see greater gender issue inequities in the social sphere than the academic. Many students shared experiences of harassment and ridicule and expressed feelings of being pressured to "fit in" to a stereotyped role as a result of their gender. Most students don't like these roles, they report. Most students recognize campus attitudes and behaviors towards gender as systemic in nature and not peculiar to our campus. And many students actively seek an alternative to these traditional male and female student roles. Gender issues, particularly role stereotyping, are recognized as a significant impediment to healthy student relationships and to personal growth. Most students welcome the involvement of the faculty and staff in seeking to alleviate negative influences within the socialization process. Despite the challenge of changing an individual's socialization and background, students expressed an interest in creating an environment in which gender-free behavior is encouraged and reinforced. This section of the report, prepared by the student subsection of the Committee, emphasizes several areas which warrant particular attention because of their repeated representation, by students, as "problem areas." The concepts are presented first in the guise of current social language, a language through which students divulge much with the use of a few repeated phrases. The subjects of parties, dining halls and athletics were also defined by, and are herein shared and described by, fellow students. The text represents a distillation of opinions gained from students through informal conversation.

Social Language

Students at Middlebury recognize many forms of social intimidation, but none more identifiably than the phrases and slang expressions which are puzzling to outsiders but quite meaningful to campus insiders. Students were asked during informal discussions to relate the ways in which gender discomfort is perpetuated. Four commonly reported expressions embrace the issue:

1.) "It's just a joke"

The most often cited form of harassment, by both men and women, is the common joke. Students asked about such jokes reported that they were not offending anyone, and some male students were quite belligerent about this. Few students took seriously the implication that to joke at an individual or a group's expense is exactly that: at their expense. Students were uncomfortable with our approach that to tell a joke, to find humor in another person's being, is to suspend your sympathy for that person's feelings. Students agreed that jokes hurt but, because they are so common, it is assumed that they should be accepted along with the attitudes which they embody. Students agreed that the telling of a racist

joke, however benign, condones racism. But students do not recognize that sexist jokes condone sexism.

2.) *"Girls don't pay"*

While in the classroom, most students feel that they are taken seriously by their professors, at least, if not their peers. There were, however, female students who indicated otherwise. In social situations, many women at Middlebury reported difficulty in being taken seriously as adults. Several women said that comments such as "girls don't pay" relegate women to the role of dependent and protected. Women who were interviewed insisted that they do not come to Middlebury to "find a good man." Yet women are frequently confronted with comments insinuating that they are here for a "Mrs." degree.² The consensus was that, by assuming a woman cannot be an equal in a relationship, demeaning and distrustful gender relations develop.

fortunately, within such a framework and on the Midd campus at large, it is difficult for one person to first of all even acknowledge the problem and then to remove themselves from it or do anything about it. The current fraternity system particularly facilitates and perpetuates this situation. The problem is deep-seated. Hopefully, with the help of things like the Committee on Attitudes Towards Gender, the awareness will slowly grow and perhaps begin to solve the problem."

-female junior

3.) *"No Fat Chicks"*

Students claim that double standards at Middlebury are rampant. If a man eats a lot, he's a "growing boy," with a "healthy appetite." If a woman eats a lot, she's a "cow," and she'd better watch her weight. Furthermore, if a man drinks a lot, he's "cool," he's "macho." A drunk man is "just having a good time." If a woman drinks a lot, she's a "slut," a "lush." A drunk woman is "out for a good time — anybody's good time." The "No Fat Chicks" catch-all is demeaning for both sexes in that it perpetuates the shallow "beautiful people" image of Middlebury, but it is particularly demeaning and damaging to women. Women admit that this pressure to be thin contributes to the anorexia and bulimia cases on campus. It also contributes to the overall feeling of discomfort experienced by many students, especially in the dining halls, wherein many students claim they are being examined as they walk with their trays to a table. The lesson again is how discounting, intrusive and dehumanizing this level of objectification really is.

4.) *"Stop whining, please"*

One of the most damaging attitudes on campus is the assumption that nothing is wrong. Many students vehemently protest that no gender issues are present at Middlebury, and that everything would just be rosy if the feminists and homosexuals would just shut up. But the number of students who reported sexual harassment, who admit to harassing others, who have felt discriminated against or abused, who have been rudely ogled at in the dining halls, suggest that not all students are in agreement. There appear to be signifi-

2

Indicators of academic achievement belie these comments. In 1989, 30 of the 48 students who graduated *summa* or *magna cum laude* were female.

"Some guys don't realize that sexist jokes and 'feminist baiting' is not funny."

-female senior

"Isn't the 'DU incident' evidence of hostility or at least a joke at the expense of women?"

-female sophomore

"I witnessed only sexist jokes. However, only in good fun. I don't believe there is anything behind them."

-male junior

"Males in a group tend to laugh 'knowingly' when a woman tries to contribute to a conversation."

-male senior

"Women at this college have to be pretty, cute and of moderate intelligence to be accepted. Men criticize overweight, unattractive, and intelligent women. Are they afraid of competition?"

-female junior

cant gender problems at Middlebury, and though it is not always acknowledged, the topic arouses an emotional response from most students. The level of denial and lack of awareness on this campus are of concern.³

Overall, many women feel that men on campus expect passivity and deference from them, and that they are met with hostility and anger when they assert themselves.

Parties

"As a fraternity member I can understand the argument that a large part of the social life is male dominated. I would be intimidated if I were a woman at a fraternity party."

-senior man

"I can't tell you how many times I have walked past fraternity houses and heard comments about what I am wearing, my body, or my sexual ability in bed."

-senior woman

"How can a fraternity possibly provide an atmosphere of equality at a party when women have to plead and grovel for tickets? When brothers man the door, tend the bar, and lean up against the wall and stare at you?"

-sophomore woman

For many students, the concept of party is synonymous with fraternities. Many students expressed strong emotions against the party system dominated by fraternities. The environment of male dominance provided by fraternities, especially when accompanied by alcohol, encourages negative male role playing. Entering a fraternity house to attend a party can be a very intimidating experience. Indeed, simply walking past a fraternity house can be intimidating.

"A female friend of mine recently told me that she had been flashed the night before at a party. Apparently a group of males surrounded her and one of them flashed her. The incident disgusted her more than it frightened her. She never reported it."

-senior man

³

Because of the immediate cause and context for the formation of our committee (see Prologue), we have focused on male-female interactions. However, we feel it is important to recognize the high levels of homophobia on campus and their negative impact on our community. These issues warrant special attention, and should be addressed in all educational programming at the College.

"Sexist comments are especially frequent when watching or discussing

women's sports."

-female junior

Most students recognize that fraternities offer a service in their parties that the College does not provide. In many conversations, the themes of parties and fraternities were used interchangeably.

"I am a bit suspicious of a questionnaire on gender attitudes that ends on a 'fraternity' note. Am I correct that the faculty wants frats done away with? If so, what else will there be? Brews and The Rosebud are gone. Mr. Up's and Amigos are the only places in walking distance to hang out and have a beer. No, I do not 'promote' frats. I think they encourage elitist and frequently loathsome behavior. They seem to inspire a digression in behavioral standards in many cases. Trouble is, alcohol and snacks are needed. (Please don't remind me of that hole in the basement of the SDUs). A student union, please, open late."

-senior man

"I feel that women's sports at the college are definitely treated second

class. I've experienced this with the amount of press coverage, support from the

college community and male athletes' attitudes."

-female sophomore

The Dining Halls

"As a freshman my J.C. told us that Proctor was a scam scene and that we should always try to look nice when we went to dinner."

-senior woman

"I feel as if everyone is staring, and analyzing my body, what I'm eating."

-sophomore woman

"A lot of times I sit with my friends and we comment on girls as they walk by — make jokes, that sort of thing. I guess I'd be humiliated if I were a girl."

-senior man

Both men and women seem to feel that the dining halls, especially Upper Proctor, are a "SCAM" scene. The pressure is very intense. Students spend a significant amount of time eating, as it is a time to meet your friends and talk — a respite from a busy day. But it seems that meal times are among the worst for negative gender relations. Sex role stereotyping and sexual harassment, including jokes, comments, double standards, all happen blatantly in the dining halls.

Athletics

Particular mention was made by several students that the athletic facilities, services, and policies are inequitably focused on men's sports needs. Students complained that they are uncomfortable with current arrangements which perpetuate the misconception that women are less capable and less deserving athletes than men.

"I agree that discrimination is present on campus, but the attitudes of females at times doesn't contribute to good feelings between the sexes. When every act of a male can be construed as 'sexist' by women when they don't agree, the male may no longer feel there is a sense of equality present. It works both ways."
-male sophomore

"People who are extreme radicals that blow everything out of proportion just to prove their point ask to be harassed."
-male sophomore

Survey Results

Completed responses were returned from 118 male students and 228 female students. The Committee evaluated the surveys in two ways. First, the Committee met as a whole and read representative surveys to gain a sense of the breadth of opinions and attitudes expressed by students towards gender issues. Subsequently, the data were entered into a computer and cataloged.

1. Sexist Attitudes, Behaviors

-A high percentage of male and female student respondents witnessed gender inequities at Middlebury. A smaller but significant percentage reported experiencing gender inequities. For female respondents condescension, hostility, sexist comments and backlash were most often experienced; for male respondents hostility and sexist comments were most often experienced.

-Junior and senior respondents (j/s) reported more sexist behavior than freshmen and sophomore respondents (f/s). Forty-seven percent of the j/s female respondents reported having experienced condescension; 46% have experienced sexist comments and 35% have experienced hostility. Of the male j/s respondents, 22% have experienced sexist comments and 30% have experienced hostility.

-Among the respondents, 11% of the males and 8% of the females have considered leaving Middlebury because of sexism they felt.

2. Sexual Harassment

-Eight percent of the male student respondents and 22% of the female student respondents reported having experienced sexual harassment. Among the j/s respondents, 12% of the males and 28% of the females reported having experienced sexual harassment at Middlebury. In reviewing the surveys, it was evident that a substantially higher number of students had experienced harassment yet did not label the experience as sexual harassment.

-Less than one-half of the student respondents reported to be knowledgeable about the channels for reporting harassment at Middlebury. Approximately one-quarter of the f/s respondents and one-half of the j/s respondents were aware of formal channels for reporting.

- Students were asked what types of harassment they have experienced on campus. Almost one-third of the female respondents indicated that they had been the target of malicious jokes about their gender, or had gender slurs directed at them; almost one-fifth of the male respondents responded affirmatively to these experiences. Over half of the female respondents and almost one-third of

"I was discussing sexual harassment by (male) faculty with a male, who proceeded to tell me that there was no big deal, that women who were harassed chose it just as much as the harasser, and that his male advisor felt the same way."
-female senior

the male respondents have noticed graffiti directed at their gender. Fourteen percent of the male respondents and thirty-seven percent of the female respondents responded that they have been made to feel socially uncomfortable because of their gender.

3. Sexual Assault ⁴

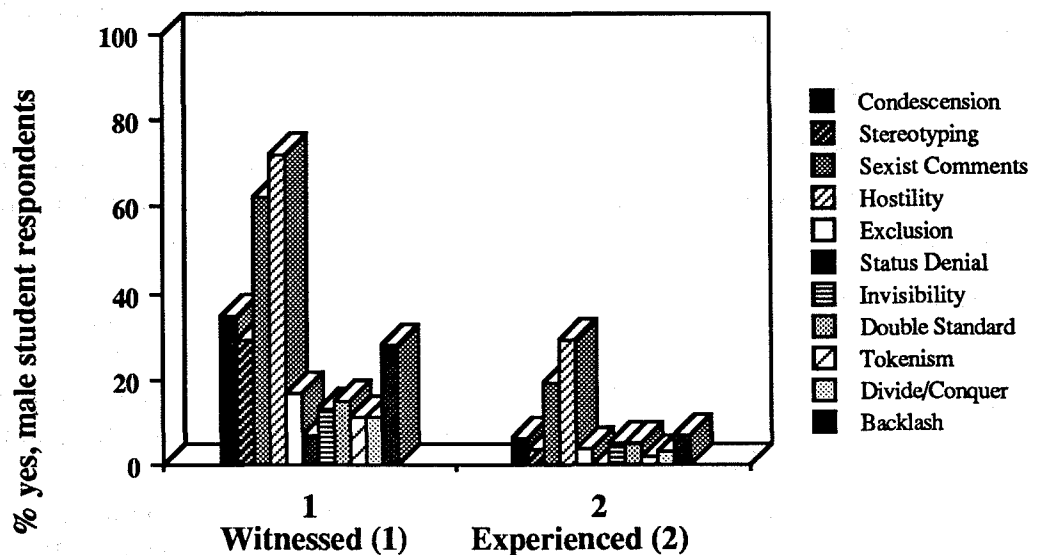
-Seventeen percent of the female respondents replied affirmatively to having been forced to engage in sexual activity against their will while on a date. For junior and senior female respondents, this number was 24%, whereas for freshmen and sophomore respondents, this number was 12%. One male respondent reported being forced to engage in sexual activity while on a date.

-Thirty-two percent of the female j/s respondents reported that they have been involved in a coercive sexual act which resulted in their engaging in sex against their will (10% of female f/s respondents), and 37% reported having been too intimidated to protest or stop the act (24% of female f/s respondents).

-Almost no respondents reported having perpetrated unwanted sexual advances on others.

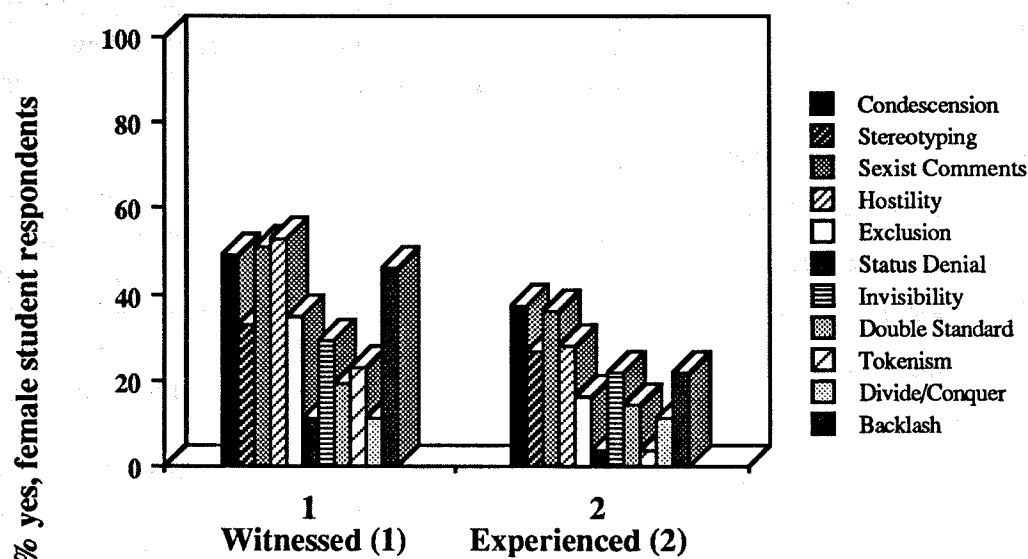
-When respondents were asked: 1) have you ever coerced or pressured anyone into having sex against their will; 2) have you

Have you witnessed or experienced this type of discrimination at Middlebury?



⁴ Vermont Law states that a person has committed sexual assault if: A person engages in a sexual act with another person and compels the other person to participate in a sexual act a) without the consent of the other person; or b) by threatening or coercing the other person; or c) by placing the other person in fear that any person will be harmed imminently; or has impaired substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person; or the other person is under the age of 16, except where the persons are married to each other and the sexual act is consensual.

Have you witnessed or experienced this type of discrimination at Middlebury?



"Women seem to be getting preferential treatment by the administration and faculty in matters concerning any type of harassment by males or females. A personal friend of mine, while being harassed verbally by a female, retaliated and called her what has become a slanderous name for a female. This conversation was overheard by another female and he was reported to the Deans. He is now on social probation and she received no penalty whatsoever."

-male sophomore

ever used intimidation to induce someone into having sex with you; 3) have you ever forced an acquaintance to have sex with you; or 4) have you ever forced a stranger to have sex with you, over 97% of both female and male respondents answered no.

4. Social Environment

-Slightly more than one-half of the respondents agree that fraternities are the center of social life on campus. Although male and female respondents differ little in their responses, junior and senior respondents were less in agreement (43%) than were freshmen and sophomores (59%).

-When asked whether the fraternity system encourages the development of positive female-male relationships, only 23% of the respondents agreed; 33% of the male respondents and 18% of the female respondents.

-Women respondents disagree that women are only interested in a one-night stand (12% agreed), as do men (21% agreed). However, 56% of the female respondents and 45% of the male respondents agreed that too many men are only interested in a one-night stand.

-Wider publicity on policies and procedures regarding sexual harassment, stranger and acquaintance rape and sexual assault was considered by 54% of the male respondents and 63% of the female respondents to be a high priority for improving the environment for women at the College.

*"I experienced
condescension in a
class by the teacher making
me feel about six inches tall
by treating me as a
'dumb blonde.'"*

-female senior

*"Some professors,
particularly female profes-
sors, insist on dressing
seedily or outlandishly,
which leads to the generali-
zation that they are 1)
lesbians, 2) strung out, or 3)
militant feminists. Most of
these are not true, but it's
the image that is presented."*

-female sophomore

*"If a male professor is
tough, he's an asshole, but
still the student wants to
please. If a female professor
is tough, she's just a bitch
with a problem. If a male is
easy, he's cool. If a female
is easy, she's a flake."*

-male senior

5. Academic Environment

-Two-thirds of the responding students indicate that faculty adequately integrate topics relating to women or gender in their courses and ensure that students recognize the contributions women have made in their fields. Forty-six percent of the female respondents and sixty-six percent of the male respondents feel that instructors include scholarship (texts) by or about women.

-Twenty-five percent of the male respondents and 40% of the female respondents feel that female faculty receive *less* respect than male faculty members.

"Some women are received as leaders, others as mere faculty members. I have not heard of one prominent woman faculty member -- only male."

-female freshman

-When asked what means might be implemented to improve the environment for women at the College, 46% of the female respondents and 29% of the male respondents placed as a high priority the expansion of the Women's Studies Program. Similarly, 46% of the female respondents and 30% of the male respondents placed as a high priority an increase in the number of women faculty.

"One of the reasons I'm a math major is the heavy concentration of women in the department. They are very supportive of women."

-female senior

II. Attitudes and Behaviors of Staff Towards Gender

*"[It is an] expectation that secretaries are the coffee-makers and cleaner-uppers of the office kitchen area."
-female staff*

*"There is a real attitude on my male supervisor's part that he can just dump work on me and I'm supposed to do it. He makes decisions about changing my job responsibilities - always an addition to my responsibilities - without even consulting me. He is a member of the "old boys' network" here and just gets away with it."
-female staff*

Ninety-one staff members responded to the survey (67 females and 24 males). Although the number of surveys returned by the staff was small, the responses were concerning.

Of the ninety-one respondents, 52% of the female respondents and 33% of the male staff respondents reported that they had witnessed "condescension" towards women (defined in the survey as "not taking women seriously"). This represented 43 out of the 91 staff members responding. With regard to experiencing condescension, 49% of the staff female respondents, or 33 individual women, had experienced condescension based on gender. No men reported this experience.

With regard to sex role stereotyping (defined as "expectation of behavior that conforms to sex role stereotypes"), 44% of all staff respondents (41 individuals out of 91 respondents) reported witnessing sex role stereotyping, and 29% reported personally experiencing it (27 individuals). With regard to "invisibility (defined as "the failure to recognize the presence or importance of women and their contributions, i.e. male supervisors taking credit for female workers ideas or work")," 22 women, or 33% of the women respondents had witnessed this and the same number of women reported having experienced it.

With regard to discrimination in awards, defined as "denial of advancement, honors, salary increases, or other awards on the basis of gender," 24% of the staff female respondents, or 16 individuals, reported that they had experienced this form of discrimination based on gender.

Based on this survey, it is not possible to know if these percentages are representative of the percentages in the total number of staff at this college, but we believe this is a question which requires further exploration. In the unlikely event that these are the only 43 individuals on staff who have witnessed condescension towards women, or the only 33 women who have experienced it (or that only 41 individuals have witnessed sex role stereotyping, etc.), these represent significant numbers of individuals and these issues should be addressed.

It is the Committee's recommendation that the standing Committee on Gender in consultation with the Staff Council, (see Recommendations), undertake a more comprehensive study of gender inequities focused on staff in order to gain a more accurate appraisal of the extent of these problems and the number of staff members affected. It is the Committee's opinion, based on the limited data

"I have been and have seen other women who, like myself, were well-qualified for advancement totally passed over, not considered at all for positions given to men. I am not considered for promotion or salary increase."

-female staff

"I feel that gender attitudes are little problems compared to some of the other, more serious problems (war, drugs, etc). I also feel that problems dealing with gender are put on by oneself."

-female staff

"I have been here 6 months. I have never seen more concern with outstanding efforts to recruit women for the department . . . I cannot imagine a more pleasant atmosphere or more agreeable working companions."

-female staff

available, that there are very real problems and that subtle behaviors and events perpetuate inequalities for women holding staff positions at Middlebury College. The magnitude of this problem needs to be explored further.

Other survey responses of particular concern were the following: 12 individuals (10 females and 2 males) reported that they had been sexually harassed at Middlebury College. Of those who had been harassed, only two individuals reported the harassment. Less than one-half of all staff respondents reported to be aware of the procedures through which sexual harassment can be reported.

Only 52% of all staff respondents viewed Middlebury as supportive of women, and 60% felt that the college was sensitive to women's issues. Twenty-four individuals (19 women) reported that they "were fearful to speak out about a job situation at Middlebury College where they felt that women were being treated unfairly." Of those who indicated they were fearful to speak out, they reported multiple reasons for their fear:

12 were concerned that recommendations would be affected;

13 were concerned for their job;

12 were concerned that they would get the "cold shoulder;"

8 were concerned that they would be harassed;

16 were concerned that their "life would be made more difficult."

Nineteen individuals reported that they had considered leaving their job because of how they were treated as a man/woman (5 men and 14 women). Fifteen individuals responded that they knew people who had left Middlebury because of sexism. With regard to preferential treatment, 44 felt that the administration gives preferential treatment to men (39 women, 5 men).

These responses are significant, concerning and need to be addressed. It is the Gender Committee's recommendation that all staff employees in supervisory positions participate in one general education session on sexism in the workplace and receive comprehensive training on sexual harassment. This training on sexual harassment needs to include: 1) a segment on intervention for a situation wherein sexual harassment is occurring; 2) reporting and referral options in sexual harassment situations; and 3) liability issues. This Committee further recommends the establishment of ongoing outreach educational programs on sexual harassment and sexism in the workplace for all staff members at the College. These sessions should be practical and comprehensive in nature, and include specific information on what sexual harassment is,

options of handling a complaint, reporting procedures and support services available.

Other staff concerns which commonly appeared in anecdotal information and comments included: the extensive amount of overtime staff are required to work and the conflict this creates regarding family and personal obligations and the expense incurred for paying for child care during hours beyond 8 a.m.-5 p.m.; the need for affordable child care for staff, especially for staff at the lower end of the pay scale; the desire for flex-time, some stating that they could accomplish their job with less personal stress and conflict with family obligations and less overtime if given the option of flex-time.⁵

*"Address the issues of
child care and maternity
leave. Take a look at the dis-
tribution of females in the
work force and make a
commitment to doing
something about it."
-female staff*

"Middlebury College is a very hard place to be if you are a woman. I personally know of three highly talented, dedicated female members of the professional staff -- really outstanding -- who have left because of sexism. In one case the administration knew of the problems and even acknowledged to the woman that her complaints were justified, yet the College didn't step in. She eventually left and became the head of the same type of department at another prestigious college. She was also given a prestigious award at that institution after her first year there for her management skills. Middlebury was willing to sacrifice her obviously superior talents rather than upset the "old boy's network" by confronting her male supervisor. That's typical around here! I also think students were really cheated. They no longer have access to her as a resource here because it was more important for the administration to protect an "old boy."

- female staff

5

"FlexTime" was also mentioned in the final report to the President on child care as an item for further discussion. Data from this survey showed: Of 82 respondents, 29 (36%) indicated that they would consider working part-time in a job-sharing arrangement. When asked simply: "Would you be interested in job sharing," the response was: Faculty - 17 no, 9 yes; Staff - 26 no, 20 yes. When asked if they would be interested in flexible work hours, the response, out of 241 answers was: Faculty - 20 no, not interested in flex time; 24 yes, with no preference early or late; 15 yes, earlier flexibility preferred; 8 yes, late-day flexibility preferred. Staff - 44 said no, not interested in flex time; 99 said yes, for early hours; 17 said yes, no preference early or late; 14 yes, late-day flexibility preferred.

III. Attitudes and Behaviors of Faculty Towards Gender

"I am proud to say that if I have not been discriminated against or exploited and have in fact been treated fairly, it's because I fight for it. No one out of their natural inclinations will tend toward fairness without both the individual resistance and the collective groundswell."
-female faculty

"Might there also be cases in which men feel discriminated against? Or have the sense that different standards might be applied by the college, individual departments, parts of the community, etc., that favor women over men? Have we done enough to stress not only our differences of sex but our commonalty as scholars and teachers? Or are we interested only in the differences?"
-male faculty

In 1990, there are 220 faculty members at Middlebury College. The ratio of male faculty to female faculty is 2.5:1. A review of male and female faculty by rank in 1990, and five and ten years ago shows the following:

Category	89-90	84-85	79-80
Total Faculty	220	192	176
Male Faculty	157	147	140
Female Faculty	63	45	36
Professors, Male	69	62	55
Professors, Female	7	5	2
Associate Professor, Male	23	23	15
Associate Professor, Female	5	5	4
Assistant Professor, Male	45	44	48
Assistant Professor, Female	28	16	13
Instr/Lecturer, Male	20	18	22
Instr/Lecturer, Female	22	19	17

There is a notable increase in the representation of women on the faculty over the past ten years. The ten years between 79-80 and 89-90 saw almost a doubling of women on the faculty with the greatest numerical gains made at the assistant professor level.

There are fewer women to hold the rank of associate professor in 89-90 than would be predicted based on the progressive movement of faculty from the assistant professor to associate professor ranks. Although it is not possible to quantitatively describe the progress of faculty from one rank to the next, because the data do not allow for the chronological tracking and review schedule of each faculty member, and other variables including the voluntary departure of faculty, including retirement, the advancement of women can be compared with that of men most accurately at the assistant-associate bridge. The data presented suggest that the progression of women through the academic ranks does not match that attained by their male counterparts. For example, comparing the progression of

"My women students denigrate themselves, make light of their achievements and do not demand excellence from themselves or their friends. It breaks my heart, and I am not at all sure of its remedy. Of course the standard remedies are important: programs, salaries, appointments, institutions. And I do not minimize them. But women do not prize and cultivate their friendships and alliances with other women, both on the faculty and in the student body and this impoverishes us all. This is a social injustice, far broader than Middlebury College, and I do not expect the College to become a utopia. But I think it could educate women in such a way that they re-dedicate themselves to this broader social change. This is a goal worthy of the College and any institution dedicated to teaching and learning."

-female faculty

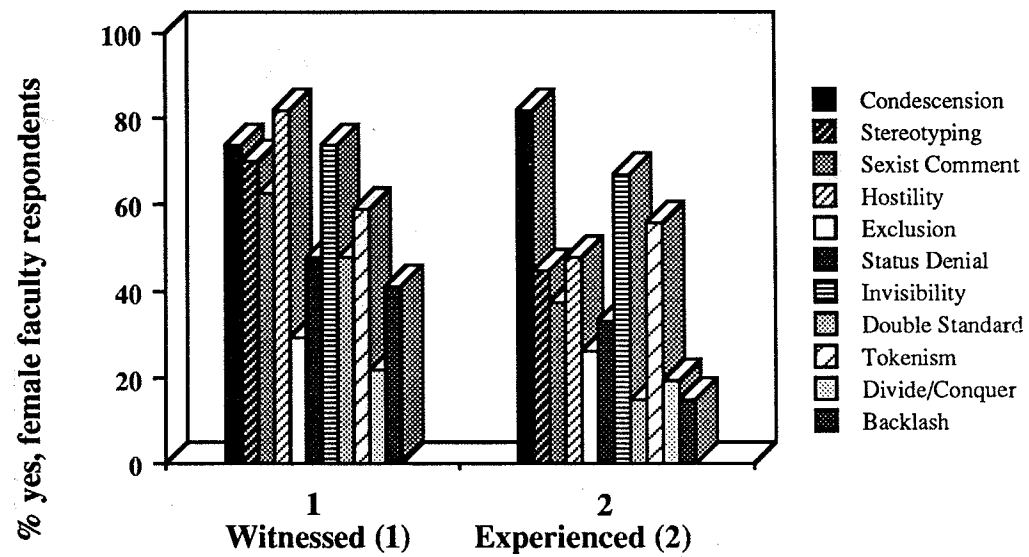
women from the assistant professor rank in 79-80 (13) to the associate professor rank in 84-85 (5), a ratio of 0.32 results. For men the comparable ratio is 0.48. For the subsequent five year period (84-85 vs. 89-90) the ratios are remarkably consistent, 0.31 for women, and 0.52 for men. Though these ratios cannot be defined as "promotional correlation" or some such term and, hence, mean nothing as discreet units, they do suggest as comparative ratios that women do not progress through the academic ranks comparably to men. It should not be concluded that men are *promoted* at a rate higher than women. The data do not prove or disprove this. Such a conclusion could not be drawn without significant additional study, which is beyond the realm of this committee. The ratio is simply used to illustrate the fact that *the progression of women through the academic ranks does not match that of their male counterparts*. The Committee recommends that the Faculty Council review information available to them, in order to understand and, hopefully, address this.

The Committee focused its evaluation of gender issues within the faculty on the responses received from the "Survey of Faculty." Of the thirty-four responses received from questionnaires mailed to male faculty, eighteen were from junior faculty and sixteen were from senior faculty. Twenty-seven surveys were returned from female faculty. Five responses were received from senior faculty and twenty-two responses from junior faculty.

The attitudes expressed by faculty towards gender issues, and in fact towards the survey itself, ranged from enthusiasm to malevolence. The Committee evaluated the surveys in two ways. First, the Committee met as a whole and read representative surveys to gain a sense of the breadth of opinions and attitudes towards gender issues. Subsequently, the data were entered into a computer and cataloged.

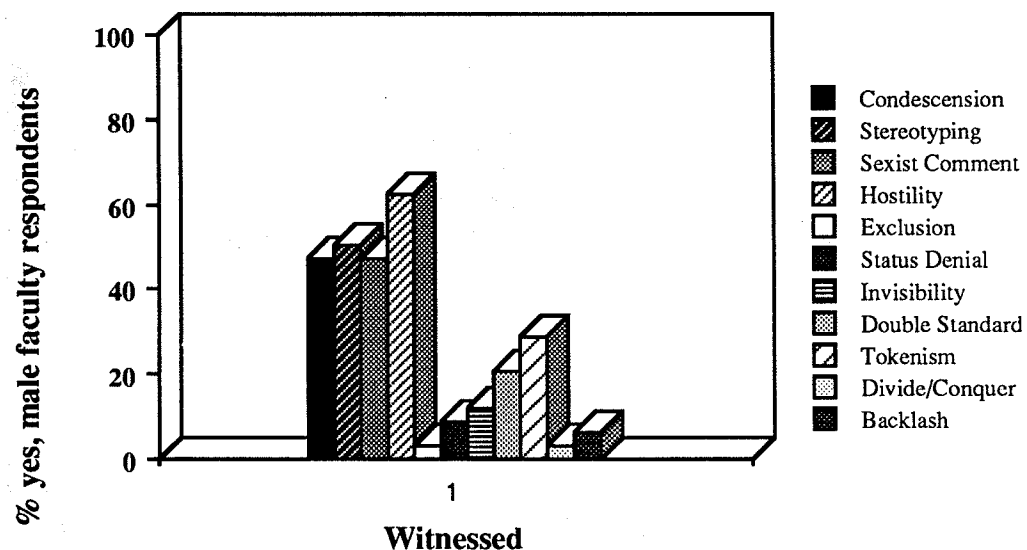
The numerical data were evaluated by the Committee to provide a sense of important quantitative comparisons about attitudes and behaviors towards gender issues, and to confirm or refute impressions formed by the Committee of general attitudes as expressed in written comments. The Committee was able to draw three general conclusions from its review.

Have you witnessed or experienced this type of discrimination at Middlebury?

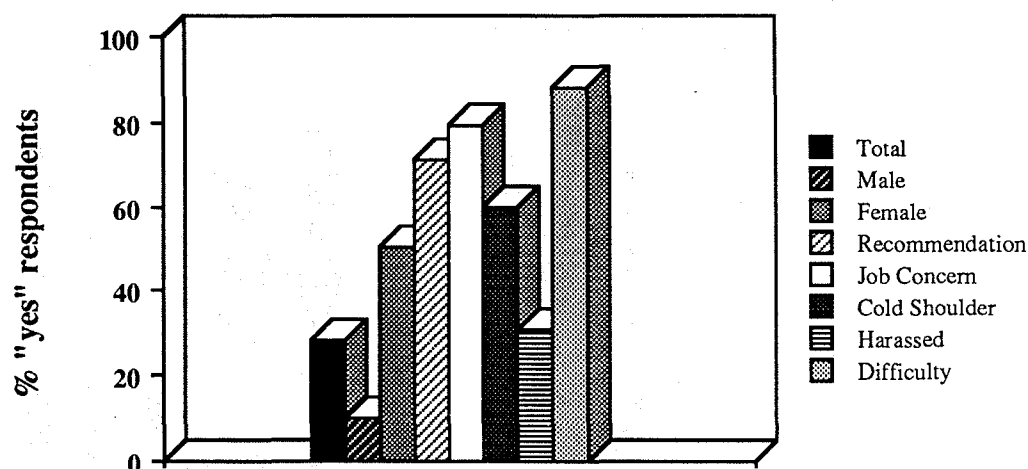


1. There exist at Middlebury behaviors and attitudes that perpetuate gender inequities for women. This is recognized by both male and female respondents.

Have you witnessed this type of discrimination at Middlebury?

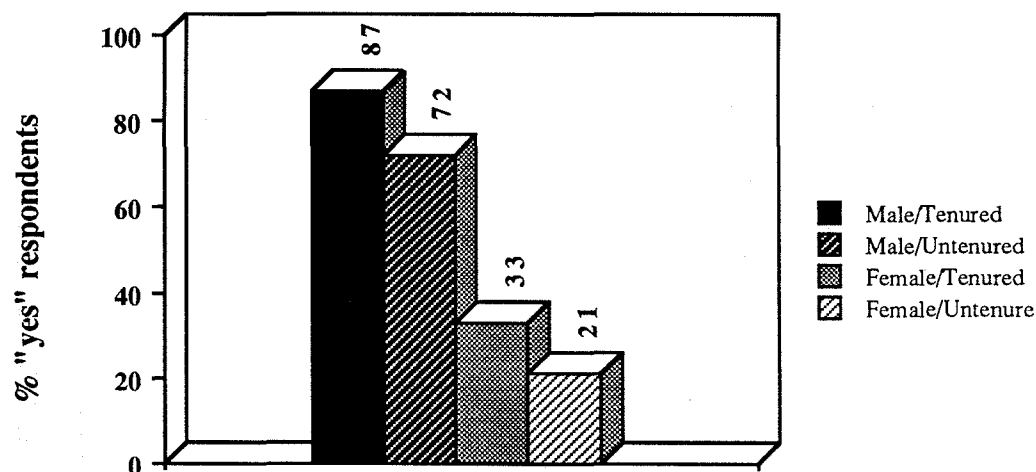


Have you ever been reluctant to speak out about gender inequity? If so, why?



2. There is reluctance on the part of faculty respondents, both male and female, to speak out about gender inequities.

Do you feel that the Middlebury College community is sensitive to women's issues?



3. Middlebury College is seen by the majority of male faculty respondents (79%) as sensitive to women; only 26% of the female faculty respondents agree. For both male and female respondents, tenured faculty members were more likely to agree than were untenured faculty members.

"I have found the roles of a faculty member at Middlebury to require an almost impossible juggling act involving commitment to classroom and individual work with students, pressure to be a productive scholar in the outside world, such extra-classroom demands as late afternoon and vacation time meetings, weekend College events, and administrative duties requested well before one receives tenure. All of these can be fulfilled and indeed only at the expense of time and attention for one's spouse, one's children, and indeed oneself (you ask about personal needs -- I am not even sure any more what my personal needs might be, they have been so displaced by the stressful conjunction of other demands in my life over the past two decades) . . . I am writing from a male perspective. I can only imagine how much more difficult the juggling, compromises, guilt and tensions must be for my female colleagues, and even more for those who are single parents. At the same time, I do not feel that this is so much a problem of traditional sex roles today as it is a problem for anyone who is trying to sustain both career and family in a framework of relative equality between spouses."

-male faculty

Epilogue

At the Counseling and Human Relations Center I have worked with a number of students whose issues have to do with individual differences and diversity. I work with students who, because of feelings regarding their individual differences or "minority status (be it race, religion, national origin, socio-economic status, physical disabilities, *sexual orientation, gender, etc.*)," have felt a need to seek support. Many of these students contact our staff seeking the confidentiality and privacy which we afford because they have not felt safe in asking for support from the College community in general. They have perceived the community as being generally lacking in awareness and sensitivity or as being non-supportive or, in some instances, as being hostile regarding their particular issue or "individual difference."

These students have sometimes been the victims of overt stereotyping, prejudice, ridicule or abuse. Others have not been overtly victimized, but have felt the effects of covert stereotyping, etc. Still others whose individual difference is "invisible (such as a man or a woman with a feminist political stance, a particular religious affiliation, an "invisible" physical disability, or a homosexual or bisexual orientation, etc.)" fear they will be victimized if they allow their "individual difference" to be known.

In my clinical work I have encountered the effects this lack of understanding, tolerance and appreciation of differences can have on students. Obviously, there is a range of effects varying in intensity. The more common effects I see are feelings of isolation and of not belonging, and feeling discounted and lacking significance. Students often express feelings of not being a full, accepted or valued member of our community. For some students there is (understandably) a significant amount of frustration, anger, grief, anxiety and, in some cases, depression connected with the isolation and discounting they experience here at Middlebury. The lack of acceptance these students experience in our community can have the effect of making self-acceptance and self-appreciation more difficult. Individuals dealing with these pressures and issues often demonstrate low self-esteem and a devaluing of self. As a result, they may underestimate personal capabilities and discount personal achievements and, in some instances, these individuals back off from opportunities or challenges they are capable of engaging and mastering. When this occurs, in my opinion personal growth is compromised. It is obvious that when the result of this lack of "acceptance" in our community results in an individual's devaluing of self and discounting of personal capabilities and achievement potential, both the individual and the community suffer.

Some students, as a result of this lack of community acceptance and belonging, demonstrate difficulties in areas of emotional intimacy and trust in relationships. They sometimes also experience a lack of a sense of personal power and control over their lives.

In regard to gender and sex roles specifically, in addition to the consequences I have already mentioned, there are men in our community who have felt "pressured" into sex role stereotypical behaviors which have been very uncomfortable and, in fact, in some instances have affected self-esteem and a sense of personal integrity. These men have yielded to pressure because of fear of being ostracized.

I believe that it is also important for our community to realize that research indicates that rigid sex role stereotypes are linked with alcohol abuse and eating disorders as well. These are problems which affect a significant number of our students. In addition, one recent piece of national research indicated that a significant proportion of suicide attempts among adolescents involves concerns over sexuality and sexual orientation. We must not ignore this.

The effects of sexism and sex role stereotyping and the devaluing of diversity in our community is, from my clinical perspective, very significant. It is important that we understand that sexism and gender issues need to be seen as community issues. We all need to be involved in addressing these issues and finding solutions to these problems.

These are not just issues for the Gender Committee or the Counseling Office or the Human Relations Committee to be concerned with or actively involved in addressing. There must be a *community* response which involves *all* of us, trustees, administrators, faculty, staff and students working together on resolving these issues.

Yonna McShane
Assistant Director and Health Educator
Counseling and Human Relations Center

Recommendations

1. A standing committee (Committee on Gender Issues) should be formed to address gender issues at Middlebury. The committee should draw its members from the faculty, staff and student body, and ensure continuity by carrying over at least two of its members each year.
2. In consultation with the Staff Council, the Committee on Gender Issues should undertake a more comprehensive study of gender inequities in order to gain a more accurate appraisal of the extent of these problems and the number of staff members affected.
3. The Committee on Gender Issues should share with the Faculty Council the concerns raised within the current report that suggest inequitable progression of women faculty through the academic ranks, and request that the Faculty Council review information available to them, including interviews with faculty who have sought voluntary departure, to determine why women do not progress through the academic ranks equally to men.
4. The Committee on Gender Issues should share with the Provost and Treasurer's office the concerns raised by staff respondents who perceive that the number of women in supervisory positions is low and that inequitable status and pay is given for women and men in comparable positions. The Treasurer's office should analyze salary scales by sex to determine whether gender inequities exist, and report the results annually to the President's Staff. We strongly encourage the Administration to honor the segment of the Staff Council's Constitution under Duties of the Officers which states that on a yearly basis the Staff Council President will review the staff salary and benefit structure.
5. The consultants hired by the College to implement staff job classifications should ensure gender equity in so doing. Their mechanism for assuring gender equity should be reported to Staff Council, President's Staff and the Committee on Gender Issues.
6. The Dean of the College should undertake an evaluation of all athletic and recreational facilities, programs, policies and services every three years to ensure compliance with Title IX legislation and to ensure gender equity.
7. Work to make the College more competitive and attractive as an employer by supporting a safe, reliable and affordable child care facility for children of faculty and staff. The options prepared by the Committee on Child Care should be considered in the ongoing evaluation of this need.

8. All staff employees in supervisory positions should be availed of one general education session on sexism in the workplace and a comprehensive training session on sexual harassment. The Committee recommends the establishment of ongoing outreach educational programs on sexual harassment and sexism in the workplace for all staff members at the College. These sessions should include information on options for handling a complaint, reporting procedures and support services available.

9. Investigate the need for flex-time among full-time employees of the College, in order to reduce overtime hours and the conflict with family obligations.

10. Middlebury should support programs in gender education for faculty. In particular:

- a. Further develop the Women's Studies Program.
- b. Encourage "mainstreaming" through faculty development workshops focused on integrating material relating to gender into the curriculum.
- c. Enact those recommendations applicable to sexism found in the Minority Advisory Workshop Recommendations (October 1988) regarding Faculty and Staff Development (p. 4):
 - "i. Develop programs and strategies to involve all faculty members in issues of racism and sexism.
 - * Faculty meetings and discussions
 - * Workshops and seminars
 - * Discuss building participation in these programs into the tenure/promotion process
 - ii. Provide resources and time for faculty to evaluate the curriculum in the context of racism and sexism; and to revise courses and design new ones to incorporate the experiences and cultures of minority students."

11. Establish a Women's Center that will serve as a permanent place for the meetings of the Women's Union, as well as other women's groups and other groups interested in human issues.

12. Strengthen and expand existing educational programs for students directed at:

- a. alcohol abuse; and
- b. sexual abuse and harassment.

These need to be planned into the responsibilities of an appropriate employee with appropriate release time from other responsibilities, and should be accompanied by a budget which will allow for broader education of the student community.

13. Support the majority recommendations of the Report of the Task Force on Student Social Life and work with all possible speed towards ensuring gender equity in all residence halls, social facilities and student programming.

14. Include workshops and other educational programs addressing issues of gender and sexism as part of freshman orientation, and as part of training for student leaders. This needs to be planned into the responsibilities of an appropriate employee, with release time from other responsibilities.

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Culley, Margo, and Catherine Portuges, eds. *Gendered Subjects: The Dynamics of Feminist Teaching*. Boston: Routledge and Kegan Paul, 1985 (An anthology focusing on feminist pedagogies that examines empowering strategies learned inside and outside the traditional classroom setting).

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Kimmel, Michael, ed. *Changing Men: New Directions in Research on Men and Masculinity*. Newbury Park, California: Sage Publications, Inc., 1987.

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Lovett, Dorothy J. "A Job Too Well Done?" *CWB* January/February 1989, p.3.

McDonald, Margie and Suzanne Wintsch (Middlebury '87), "Body Scan."

McIntosh, Peggy, Ph.D. "Feeling Like a Fraud." Stone Center Working Paper No. 18, Wellesley, Massachusetts.

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Recommendations from the Minority Advisory Workshop, October 1988.

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Sadker, Myra P. and David M. Sadker. *Sex Equity Handbook for Schools*. New York: Longman, 1982 (Focuses on elementary through highschools, reviews research about impact of sex stereotyping on both sexes, and shows how to evaluate textbooks and teacher-student interactions for sex bias. Includes strategies for change and a resource directory for sex equity).

Schuster and Van Dyne, *Selected Bibliography for Integrating Research on Women's Experience in the Liberal Arts Curriculum*, fifth edition, 1986.

Staples, Robert. *Black Masculinity: The Black Male's Role in American Society*. San Francisco: The Black Scholar Press, 1982.

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"Toward Equity: The Final Report of the Task Force on the Status of Women," University of Virginia, April 1988.

Where Are We Now? Self-evaluation of Institutional Diversity and Gender Equity

1. What is the proportion of majority and minority culture students in classes you're teaching now? What cultures do they represent? How much do you know about their cultural values? (stereotypes, what they tell me)

2. How does the curriculum at your school represent the experiences of women past and present, how does it represent cultural and racial diversity? (rarely in the classroom or textbooks? better in some fields than others? curriculum is as inclusive as we want it to be?)

3. Who is expected to teach about women, about racial and ethnic diversity -- women if they want to? minority students? minority faculty members? residence counselors? where do students find out about cultural diversity -- inside or outside the classroom?

4. What connections are there between residential life, extra-curricular activities, and the curriculum? How do the celebrations and traditions of your school represent non-white, non-western, non-Christian values (little attention paid? somewhat? do we want to?)

5. How would you describe the social and learning climate for a minority student at your school? (comfortable? tolerated? feels invisible?)

6. Is there a special effort at "minority recruitment," "minority retention?" What could teachers and staff do toward minority retention of teachers and students at your school?

7. Where are majority women and minority women and men present in the faculty and staff at your school and in what proportions: administrators? teachers? coaches? secretarial staff? maintenance staff? trustees?

8. Do women faculty members have leadership roles? Do minority men faculty members? Does the pattern of life at your school make heavier demands on single women? married men? Do women assume some responsibilities more than men? Does the social life isolate some people more than others?

prepared by Marilyn Schuster and Susan Van Dyne, Smith College

Appendix I

The Current Vermont Statute

Chapter 72. Sexual Assault

SECTION

- 3251. Definitions.
- 3252. Sexual assault.
- 3253. Aggravated sexual assault.
- 3254. Trial Procedure.
- 3255. Evidence.

General amendment relating to sexual assault. 1981, No. 1 (Sp. Sec.), ## 14, eff. July 17, 1981, provided: "The statutory revision commission is directed to revise Vermont statutes to delete the word 'rape' and insert the words 'sexual assault' insofar as that construction is consistent with the intent of chapter 72 of Title 13 [this chapter]."

Applicability of chapter. 1977, No. 51 ## 2,3, provided that this chapter shall apply to acts committed on or after July 1, 1977, and that acts committed prior to July 1, 1977, shall be subject to prosecution pursuant to chapter 71 of this title.

T.13 3251.

3251. Definitions.

As used in this chapter:

(1) A "sexual act" means conduct between persons consisting of contact between the penis and vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another;

(2) "Sexual conduct" means any conduct or behavior relating to sexual activities of the complaining witness, including but not limited to prior experience of sexual acts, use of contraceptives, living arrangement and mode of living;

(3) "Consent" means words or actions by a person indicating a voluntary agreement to engage in a sexual act;

(4) "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. - Added 1977, No. 51, # 1; amended 1985, No. 83, # 1.

1985 amendment. Subdivision (1): Deleted "other than the fingers" following "body".

1. Cited. Cited in State v. Bailey (1984) 144 VT 86, 475 A.2d 1045.

3252. Sexual assault

A person who engages in a sexual act with another person and

(1) Compels the other person to participate in a sexual act:

(A) Without the consent of the other person; or

(B) By threatening or coercing the other person; or

(C) By placing the other person in fear that any person will be harmed imminently;

or

(2) Has impaired substantially the ability of the other person to appraise or control conduct by administering or employing drugs or intoxicants without the knowledge or against the will of the other person; or

(3) The other person is under the age of 16, except where the persons are married to each other and the sexual act is consensual;

shall be imprisoned for not more than 20 years, or fined not more than \$10,000.00, or both. - Added 1977, No. 51 # 1; amended 1985, No. 83, # 2.

1985 amendment. Deleted "other than a spouse" preceding "and" in the introductory paragraph and substituted "except" where the persons are married to each other and the sexual act is consensual" for "and they are not married to each other" following "16" in subdiv. (3).

Cross references. Admissibility of out of court statements of children ten years of age or under who are victims of sexual offenses or delinquent acts, see Rule 804a, Vermont Rules of Evidence.

Admissibility of testimony recorded or televised from outside courtroom of minor victims of sexual offenses or delinquent acts, see Rule 807, Vermont Rules of Evidence.

Appointment of guardians ad litem for minor victims of sexual offenses or delinquent acts, see Rule 44.1, Vermont Rules of Criminal Procedure.

Notification of defendant of intent to offer hearsay statement of minor victim of sexual offense or delinquent act, see Rule 26, Vermont Rules of Criminal Procedure.

Taking of depositions of children 12 years of age or under who are victims of sexual offenses or delinquent acts, see Rule 15(j), Vermont Rules of Criminal Procedure.

1/2. Construction. Clear legislative intent behind this section is that the criminal nature of the conduct stems from the aggressive violation of the sanctity of the human body and the consequent destruction of the victim's self-worth, and given such intent it is incumbent upon supreme court to avoid a construction of the sexual assault statute which would increase the quantum of proof necessary to establish the physical act of violation addressed by the statute. *State v. Bourn* (1980) 139 Vt. 14, 421 A.2d 1281.

1. Contact. Motion for judgment of acquittal on two counts of sexual assault should have been granted where record did not establish the element of contact. *State v. Prime* (1979) 137 Vt. 340, 403 A.2d 270.

2. Non-spouse. Element of sexual assault, that victim not be spouse of defendant, could be established by victim's testimony that assailant was a stranger to her, and by examination and cross-examination tending to establish lack of a marital relationship. *State v. LaRose* (1979) 137 Vt. 531, 408 A.2d 651.

3. Lesser offenses. Simple assault requires proof of bodily injury or an attempt to cause bodily injury, an element not identical to an element of sexual assault or always necessarily included in the elements of sexual assault; therefore, one charged with sexual assault is not entitled to a jury instruction on simple assault. *State v. Bourn* (1980) 139 Vt. 14, 421 A.2d 1281.

3a. Method of committing offense. Where prior to defendant's trial for attempted sexual assault defendant filed a motion to specify the charge and following the prosecutor's statement that the state was proceeding under subsection (1) of this section defense counsel indicated his satisfaction and proceeded without pursuing the motion to require the state to specify whether the information charged defendant with violating subdivision (1) (A), (1) (B) or (1) (C), since evidence presented by both sides at trial conjoined without objection to all three subdivisions, the court's instructions to the jury charged the subdivisions in the disjunctive and substantially as requested by defendant, defendant did not object to the instruction or request additional or clarifying instructions, subdivisions (1) (A), (1) (B) and (1) (C) were not separate crimes as defendant claimed, but rather separate ways by which the single offense set forth in subsection (1) could be committed, and even if the jury singled out one of the subdivisions and based its verdict on that one alone, defendant was not prejudiced because he was convicted of one offense, a violation of subsection (1), and the evidence was strong on all three subdivisions, any error resulting from failure to specify the method by which the offense was committed was harmless. *State v. Nash* (1984) 144 Vt. 427, 479 A.2d 757.

4. Cited. Cited in *State v. Roy* (1981) 140 Vt. 219, 436 A.2d 1090; *State v. Patnaude* (1981) 140 Vt. 861, 438 A.2d 402; *State v. Bevins* (1981) 140 Vt. 415, 439 A.2d 271; *State v. Shattuck* (1982) 141 Vt. 523, 450 A.2d 1122; *State v. Onorato* (1982) 142 Vt. 99, 453 A.2d 393; *State v. Knight* (1982) 142 Vt. 202, 453 A.2d 82; *State v. Towne* (1982) 142 Vt. 241, 453 A.2d 1133; *State v. Dubois* (1983) 142 Vt. 391, 457 A.2d 623; *State v. Kerr* (1983) 143 Vt. 597, 470 A.2d 670; *State v. Bailey* (1984) 144 Vt. 86, 475 A.2d 1045; *In re Bentley* (1984) 144 Vt. 404, 477 A.2d 980; *State v. Rice* (1984) 145 Vt. 25, 483 A.2d 248; *State v. Smith* (1984) 145 Vt. 121, 485 A.2d 124.

3253. Aggravated sexual assault

A person who violates section 3252 of this title and causes the other person serious bodily injury shall be imprisoned for not more than 25 years, or fined not more than \$15,000.00, or both. - Added 1977, No. 51, # 1.

Cross references. Admissibility of out of court statements of children ten years of age or under who are victims of sexual offenses or delinquent acts, see Rule 804a, Vermont Rules of Evidence.

Admissibility of testimony recorded or televised from outside courtroom of minor victims of sexual offenses or delinquent acts, see Rule 807, Vermont Rules of Evidence.

Appointment of guardians ad litem for minor victims of sexual offenses or delinquent acts, see Rule 44.1, Vermont Rules of Criminal Procedure.

Notification of defendant of intent to offer hearsay statement of minor victim of sexual offense or delinquent act, see Rule 26, Vermont Rules of Criminal Procedure.

Taking of depositions of children 12 years of age or under who are victims of sexual offenses or delinquent acts, see Rule 15(j), Vermont Rules of Criminal Procedure.

3254. Trial procedure

In a prosecution for a crime defined in this chapter:

- (1) Lack of consent may be shown without proof of resistance
- (2) A person shall be deemed to have acted without the consent of the other person where the actor:
 - (A) Knows that the other person is mentally incapable of understanding the nature of the sexual act; or
 - (B) Knows that the other person is not physically capable of resisting, or declining consent to, the sexual act;

or

- (C) Knows that the other person is unaware that a sexual act is being committed. - Added 1977, No. 51, # 1.

3255. Evidence

(a) In a prosecution for a crime defined in this chapter:

(1) Neither opinion evidence of, nor evidence of the reputation of the complaining witness' sexual conduct shall be admitted;

(2) Evidence shall be required as it is for all other criminal offenses and additional corroborative evidence heretofore set forth by case law regarding rape shall no longer be required;

(3) Evidence of prior sexual conduct of the complaining witness shall not be admitted; provided, however, where it bears on the credibility of the complaining witness or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(A) Evidence of the complaining witness' past sexual conduct with the defendant;

(B) Evidence of specific instances of the complaining witness' sexual conduct showing the source of origin of semen, pregnancy or disease;

(C) Evidence of specific instances of the complaining witness' past false allegations of violations of this chapter.

(b) In a prosecution for a crime defined in this chapter, if a defendant proposes to offer evidence described in subsection (a) (3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the court shall rule on the objections forthwith, and prior to the taking of any other evidence. - Added 1977, No. 51, # 1.

Cross references. Admissibility of out of court statements of children ten years of age or under who are victims of sexual offenses or delinquent acts, see Rule 804a, Vermont Rules of Evidence.

Admissibility of testimony recorded or televised from outside courtroom of minor victims of sexual offenses or delinquent acts, see Rule 807, Vermont Rules of Evidence.

Appointment of guardians ad litem for minor victims of sexual offenses or delinquent acts, see Rule 44.1, Vermont Rules of Criminal Procedure.

Notification of defendant of intent to offer hearsay statement of minor victim of sexual offense or delinquent act, see Rule 26, Vermont Rules of Criminal Procedures.

Taking of depositions of children 12 years of age or under who are victims of sexual offense or delinquent acts, see Rule 15(j), Vermont Rules of Criminal Procedure.

1. Construction. This section is the application of the general rule that past conduct is not admissible to prove present conduct to the specific circumstances of rape, where the "private character" of the past sexual conduct is responsible for the harm, such as the dangers of unfair prejudice, confusion of the issues, misleading the jury, or miring the court in collateral issues, which would result if such evidence were admitted. *State v. Patnaude* (1981) 140 Vt. 361, 438 A.2d 402.

The "private character" test embodies in subsection (a) (3) of this section is a specific application of the general test of legal relevancy. *Id.*

The "private character" test for sexual assault cases, set forth in subsection (a) (3) of this section, is synonymous with the traditional tests for legal relevance admissible generally in criminal and civil trials. *Id.*

2. Purpose. This section of Vermont's sexual assault act represents an explicit legislative decision to eliminate trial practices under the former rape law that had effectively frustrated society's vital interest in the prosecution of sex crimes. *State v. Patnaude* (1981) 140 Vt. 361, 438 A.2d 402.

The legislature, in enacting this section, rejected the former view that in rape, unlike all other areas of the law, past acts prove the existence of a corrupt mind which inclines the witness to automatic consent on all occasions. *Id.*

In enacting this section, the legislature increased the reliability of the judicial system by excluding worthless

evidence, increased the number of rapes actually reported and made it less likely that highly inflammatory information with no logical connection to the issues at trial would bring about unwarranted acquittals. *Id.*

Among the purposes expressly given by the legislature for enacting this section was to protect victims from an inquisition into their past sexual conduct and to treat past conduct evidence uniformly, whether in rape cases or in the law generally, and these two purposes were reflected in the test mandated by subsection (a) (3) of this section, requiring that probative value be weighed against the "private character" of the evidence. *Id.*

3. Generally. This section standardizes the law of evidence, bringing the rules governing the admissibility of past act evidence in rape cases into conformity with the evidentiary rules in effect for the rest of the law. *State v. Patnaude* (1981) 140 Vt. 361, 438 A.2d 402.

4. Argument of prosecutor. In prosecutions for sexual assault, trial court did not err in allowing the prosecutor in final argument to the jury to comment on dependants failure to rebut evidence offered by state to the effect that one of the complaining witnesses had not ever had prior sexual intercourse with any of the defendants, ever dated any of them, or even know who they were, since it is within the purview of this section for the court to admit evidence of specific instances of the complaining witness' past sexual conduct with the defendants, or either of them, and the trial judge had in no way precluded the defendants from offering evidence of prior sexual conduct of this prosecuting witness with either of them if they had any such evidence. *State v. Patnaude* (1981) 140 Vt. 361, 438 A.2d 402.

5. Cited. Cited in *State v. Bevins* (1981) 140 Vt. 415, 439 A.2d 271.

Law Review Commentaries

Exclusion of evidence of victim's character, see 1 Vt. L. Rev. 215 (1976).